IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 12TH JUNE 2007 / 22ND JYAISHTA 1929

Crl.MC.No. 1811 of 2007()

CRIME NO. 353/03 OF VELLARADA POLICE STATION

PETITIONER: ACCUSED

KISHOREKUMAR, AGED 37 YEARS,
S/O. AROMALUNNI, BHAKTHAMANDIRAM,
AYIRA DESOM, KARODE VILLAGE, NEYYATTINKARA TALUK,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
SUB INSPECTOR OF POLICE, VELLARADA POLICE
STATION, THIRUVANANTHAPURAM DISTRICT, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SHRI. M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

Crl.M.C.No. 1811 of 2007

- -

Dated this the 12th day of June, 2007

O R D E R

The petitioner was the licensee of a toddy shop. On 31.7.2003 samples of the toddy kept in the premises of the petitioner was taken by the police. A crime has been registered under Section 102 Cr.P.C. as crime No.353 of 2003 of Vellarada Police Station. The sample drawn has been sent to the Chemical Examiner. The report is awaited.

2. The petitioner has come to this Court complaining about the unjustified and undeserved registration of the crime against the petitioner. This is most unjustified and the petitioner should not be left to suffer the agony and trauma of a crime registered against him unnecessarily The counsel relies on Rule 8(3) of the Kerala Abkari Shops Disposal Rules, 2002, which mandates that a crime is to be registered only after the report of the Chemical Examiner is received.

3. At the moment, there is nothing to indicate that the petitioner has committed any offence. The learned counsel for the petitioner submits that the registration of such a crime does certainly

expose the petitioner for undeserved trauma and difficulties too if he were to bid for licence for toddy shops in future.

4. There is no worthwhile material on which the petitioner can be proceeded with now. The mere fact that a sample has been drawn from his premises cannot certainly justify initiation of criminal adjudicatory process against the petitioner. I am satisfied that the registration of the F.I.R. is totally unjustified at present. If and when the report of the Chemical Examiner is obtained and if such report justifies action, the respondents shall be at liberty to take such action. At any rate, the F.I.R. registered does not deserve to be continued.

5. This Crl.M.C. is accordingly allowed. The F.I.R. in Crime No.353 of 2003 of Vellarada Police Station registered against the petitioner is hereby quashed. Needless to say, if any report is received from the Chemical Examiner indicating or suggesting commission of any offence by the petitioner, the respondents shall be at liberty to register a crime under Rule 8(3) of the Rules and take appropriate further action.

(R. BASANT)
Judge

tm